Supreme Court, U.S.
FILED
03-1168 DEC 11 2003
OFFICE OF THE CLERK

In The Supreme Court of the United States

SHERRY D. BATTLE,

Petitioner,

v.

CHARLES E. POSTON, et al.,

Respondents.

On Petition for Writ of Certiorari to the Supreme Court of Virginia

PETITION FOR WRIT OF CERTIORARI

Sherry D. Battle
1225 Boissevain Avenue
Norfolk, Virginia 23507
(757) 622-2112

Petitioner Pro se

LANTAGNE LEGAL PRINTING
801 East Main Street Suite 100 Richmond, Virginia 23219 (800) 847-0477

QUESTION PRESENTED

I. Did the Court deny a civil litigant due process of law under the Fifth And Fourteenth Amendments by imposing monetary sanctions against the litigant without affording the litigant an opportunity to contest the attorney's fee statements, the type and amount of sanctions?

II. Did the Court deny a civil litigant due process of law under the Fifth And Fourteenth Amendments when denying the litigant access to the court by requiring the litigant to obtain prior approval before filing any suit in the state's courts?

PARTIES BELOW

Sherry D. Battle, Plaintiff / Appellant-Petitioner

The following additional parties were named in the caption: John C. Morrison, Jr. William F. Rutherford, Everett A. Martin,Jr., Lydia C. Taylor, Marc Jacobson, John E. Clarkson, Junius P. Fulton III, Joseph A. Leafe, Albert Teich, Jr., Charles D. Griffith, Jr., Defendants / Appellees / Respondents.

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II. The Petition Should Be Granted Because The Opinion Below Conflicts With This Court's Prior Rulings On The Essential Due Process Right Of The Litigant To Have Access To The Courts.

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APPENDIX

APPENDIX A	Order of the Supreme Court of Virginia filed on September 12, 2003.
APPENDIX B	Order of the Supreme Court of Virginia filed on June 11, 2003.
APPENDIX C	Orders of the Circuit Court of the City of Norfolk, Virginia entered on October 18, 2002

Petitioner, Sherry D. Battle ("Battle") respectfully requests that a writ of certiorari be issued to review the order of the Supreme Court of Virginia.

OPINION BELOW

The Supreme Court of Virginia denied the petition for appeal on June 11, 2003, and denied the petition for rehearing on September 12, 2003 (Record No. 030214). The opinions were not published. The Circuit Court of the City of Norfolk, Case No. L02-1383, entered its Orders on October 18, 2002.

STATEMENT OF JURISDICTION

The Order of the Supreme Court of Virginia ("Virginia Supreme Court") was entered on June 11, 2003. The Virginia Supreme Court denied a timely petition for rehearing on September 12, 2003.

The jurisdiction of this Court is invoked under 28 U.S.C. Sec. 1257 (a).

CONSTITUTIONAL, STATUTORY AND RULE PROVISIONS INVOLVED

The Fifth Amendment to the United States Constitution provides in relevant parts: "No person shall...be deprived of life, liberty, or property, without due process of law ..."

The Fourteenth Amendment to the United States Constitution provides in relevant part that: "No State shall ... deprive any person of life, liberty, or property without due process of the law ...."

Section 8.01-271.1 of the Code of Virginia provides : " Every pleading, written motion, and other paper of a party represented by an attorney shall be signed by at least one attorney of record in his individual name, and the attorney's address shall be stated on the first pleading filed by that attorney in the action. Party who is not represented by an attorney, including a person confined in a state or local

correctional facility proceeding pro se, shall sign his pleading , motion, or other paper and state his address.

The signature of an attorney or party constitutes a certificate by him that (i) he has read the pleading, motion, or other paper, (ii) to the best of his knowledge, information and belief, formed after reasonable inquiry, it is well grounded in fact and is warranted by existing law, or good faith argument for the extension, modification, or reversal of existing law, and (iii) it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation. If a pleading, written motion, other paper is not signed, it shall be stricken unless it is signed promptly after the omission is called to the attention of the pleader or movant.

An oral motion made by an attorney or party in any court in the Commonwealth constitutes a representation by him that (i) to the best of his knowledge, information and belief formed after reasonable inquiry it is well grounded in fact and is warranted by existing law or good faith argument for the extension, modification or reversal of existing law, and (ii) it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation.

If a pleading, motion, or other paper is signed or made in violation of this rule, the court, upon motion or upon its own initiative, shall impose upon the person who signed the paper or made the motion, a represented party, or both, an appropriate sanction, which may include an order to pay to the other party or parties the amount of the reasonable expenses incurred because of the filing of the pleading, motion or other paper or making of the motion, including a reasonable attorney's fee".

STATEMENT OF THE CASE

To fully appreciate the significance of the issues presented by this case, it is essential to consider the procedural background.

On October 5, 2001, petitioner, Battle filed a civil right suit against the Judges and the Clerk of the Norfolk Circuit Court and others. She filed a nonsuit, and refiled on June 12, 2002. Battle challenged the denial of her application for reinstatement to serve as a professional bail bondswoman.

On May 26, 1994, Respondent- Judge John C. Morrison Jr. ("Respondent- Judge Morrison") advised Battle that her status as a professional bail bondswoman would be suspended. Battle was told by Respondent Judge Morrison that upon posting sufficient additional collateral, she would be reinstated as a bondsman.

In her attempts to post additional sufficient collateral, on January 20, 1999, Battle requested Respondent-Chief Judge Charles E. Poston (" Respondent-Chief Judge Poston") to reinstate her as a professional bail bondswoman.

It was noteworthy that the parcel of real estate located at 1225 Boissevain Ave. has a market value of $1,000,240.

On June 18, 1999, Battle requested the status of her application, and on July 7, 1999, the Respondent-Judges prematurely and tentatively denied her application for reinstatement.

On September 9, 1999, Battle requested Respondent-Chief Judge Poston to reconsider his August 24, 1999's decision.

On October 6, 1999, Respondent- Chief Judge Poston, in considering Battle's letter of September 9, 1999, stated that "the second letter requested a hearing. I assume that you are requesting a hearing in the matter of application for a certificate to serve as a bondsman. There is no provision in the statute governing bondsmen for a hearing in

these types of matter. The court considers this matter closed."

Respondent-Judges did not deny Thomas Grimes' (white-male), Eugene Johnson's (black-male and convicted felon), and Linwood Mitchell's (black-male) applications to be reinstated as professional bail bondsmen, when they applied at the time Battle made application and thereafter. Section 19.2-151 of the Virginia Code requires the professional bail bondman to post $200,000.00 worth of collateral. However, these bondmen, who were similarly suspended and situated, posted no collateral to be reinstated as a bondmen.

On October 4, 2002, Battle requested Judge Alfred D. Swersky (the trial court) to permit her to submit to him legal memoranda that she had prepared in response to the respondents' pleas in bar, demurrers and motions for award of sanctions. 10-4-2002, TR. 21. "I will allow you to do it ma'am, but I will decide this case today." 10-4-2002, TR. 21. Battle requested more time to submit a response to the defendants' motions for award of sanctions. 10-4-2002, TR. 53. After the hearing of October 4, 2002, Battle mailed her replies to the respondents' pleas in bar, demurrers and motions for sanctions.

On October 4, 2002, prior to reading and considering Battle's reply briefs to the respondents' pleas in bar, demurrers, and motions for sanctions, the trial court imposed monetary sanctions in the amount of $7000,00 and entered an Order of the Pre-Filing Injunction, which unreasonably restricted Battle's access to the courts in the Commonwealth of Virginia.

Battle filed a petition for appeal with the Virginia Supreme Court, appealing the trial court's Orders of October 18, 2002. On June 11, 2003, the Virginia Supreme Court denied Battle's petition, and , on September 12, 2003, it denied her petition for rehearing.

REASONS FOR GRANTING THE WRIT

I. THE PETITION SHOULD BE GRANTED BECAUSE THE OPINION BELOW CONFLICTS WITH OTHER UNITED STATES COURTS OF APPEALS' PRIOR RULINGS ON THE ESSENTIAL DUE PROCESS RIGHT OF A LITIGANT TO HAVE THE OPPORTUNITY TO CONTEST ATTORNEY'S FEE STATEMENTS,THE TYPE AND THE AMOUNT OF SANCTIONS.

Battle's petition for writ of certiorari should be granted because the opinion below conflicts with other United States Courts of Appeals' important prior rulings on a litigant's fundamental due process right to a fair trial and a fair process for imposing sanctions.

In the case at bar, Battles' due process rights were violated in that the Virginia Supreme Court, by denying review of the trial court's Orders, did not afford her an opportunity to respond to the respondents' motions for sanctions. While Battle requested the trial court to give her more time to respond to the respondents' motions for sanctions, the trial court arbitrarily made its decision and imposed a $7,000.00 sanction against her before even reading and considering her replies to the respondents' pleadings (10-4-2003, Tr. 53). The trial court's actions were clearly inconsistent with due process of law in that, inter alia, it imposed sanctions against Battle without having read and considered her reply pleadings.

It is well settled that a judgment is void, if the court acted in manner inconsistent with due process of law. Lohnman v. General Am. Life ins. Co., 478 F 2d 719 (8th Cir. 1973), cert. denied, 414 U.S. 835 (1973). See Wright & Mitler., Fed Practice Procedure, Sec. 2862, p 329. It is also well established that monetary sanctions may be set- aside when no opportunity have been afforded to contest the attorney's fee statements and the type and the amount of sanctions, when large monetary sanctions are imposed largely as a result of those statements. In re Kunstler, 914 F. 2d 505 (4th Cir. 1990). cert. denied, 499 U.S. 969 (1991). In

re Kunstler, the Fourth Circuit Court of Appeals vacated the sanctions that were imposed on Attorney William Kunstler and others. The Court held that, inter alia, that the appellants were not given an adequate opportunity to respond to the type and amount of sanctions imposed, particularly, in light of the large sanction Id. at 522. The appellants were not given an adequate opportunity to contest the fee statements Id. Due Process requires that the appellants have some opportunity to contest the amount of sanctions imposed Id.

In the case at bar, the Virginia Supreme denied Battle the process that was due her under the Fifth and Fourteenth Amendments to the United States Constitution. Battle, pro se, was not afforded an adequate opportunity to respond to the type and amount of sanctions that were imposed against her. On October 4, 2002, Counsel for the Respondent-Judges and Counsel for the Respondents Charles D. Griffith, Jr. and Albert Teich filed and argued their motions for sanctions immediately preceding their arguments on their demurrers and pleas in bar. On October 4, 2002, the trial court ruled on the type and amount of sanctions that would be imposed against Battle without affording her an adequate opportunity to contest the attorney's fee statements and the type and amount of the sanctions sought to be imposed. The Virginia Supreme Court denying her petitions was tantamount to the State of Virginia denying Battle's her due process of law under the Fifth and Fourteenth Amendments, which provides in relevant part that " No person shall be ... deprived of life, liberty, or property without due process of the law." The Fourteenth Amendment provides in relevant part that: "No State shall ... deprive any person of life, liberty, or property without due process of the law."

II. THE PETITION SHOULD BE GRANTED BECAUSE THE OPINION BELOW CONFLICTS WITH THIS COURT'S PRIOR RULING ON THE ESSENTIAL DUE PROCESS RIGHT OF LITIGANT TO HAVE ACCESS TO THE COURTS.

Battle's petition for writ of certiorari should be granted because a litigant has a right to have access to the courts by the First Amendment to the United States Constitution. E.g., N.A. A. C.P. v. Button, 371 US. 415, 429-30 (1963); California Transportation v. Trucking Unlimited, 404 U.S. 508, 513 (1972). Moreover, a state arbitrarily denying a litigant access to its courts violates the Due Process Clauses of the Fifth and Fourteenth Amendments to the United States Constitution.

The Due Process Clauses of the Fifth and Fourteenth Amendments provide that the State shall not take a person's life, liberty, or property without due process of the law. Due process contemplates fair process , which requires at least an opportunity to present objections to the proposed action to a fair and neutral judge. E.g. Daniels v. Williams, 474 U.S. 327 (1986). Davidson v. Cannon, 474 U.S. 344 (1986); See Matthews v. Eldridge, 424, U.S. 319 (1976).

In the case at bar, because the trial court was concerned about Battle's previous filings of lawsuits against the respondents judges and the clerk, it entered an Order Of Pre- Filing Injunction ("Order") against Battle which provides, inter alia, that Battle" ... is restrained from further filings in this Court and the Courts of the State of Virginia without prior leave of the court in which the action to be instituted ... :" (Emphasis supplied). The facts under Reason For Granting The Writ I are incorporated herein by reference. The trial court' actions violated Battle's due process by unreasonably and arbitrarily restricting her access to the courts in the State of Virginia. A State court's denial of an individual access to the courts violates the due process standards of fairness. See Logan v. Zimmerman Brush Co., 455 U.S. 422 (1982). In the case at bar, the trial court took the liberty of not only restricting Battle's access to the courts to sue the respondents (some public officials), but it has "restrained (her) from further filings in this Court and the courts of the State of Virginia without obtaining prior leave of the Court ... (Emphasis supplied)." The trial court's

action is arbitrary, overbroad and violates the even most minimum due process standards. While it may have been discretional for the Virginia Supreme Court to restrict filings against certain public official, except leave of court, it was unreasonable and arbitrary for it to restrict access to the courts upon filing suits against others public officials and private individuals.

Furthermore, the trial court failed to provide Battle with a reasonable opportunity to respond, as is provided for parties under federal sanctions rules and the Due Process Clause of the Fifth Amendment to the United States Constitution. It is well established in numerous circuits that under sanction rule (Rule 11) a party is entitled to notice and reasonable opportunity to respond. See Donald v. Clark, 819 F. 2d 1551 (11th Cir. 1987); Lepucki v. Van Wormer F. 2d. 86 (7th Cir. 19850; cert. denied 474 U.S. 72, 88 L. Ed. 2d. 71, 106 S. Ct. 80 (1986); Sanko S. S .Co. v. Gallin ,855 F. 2d. 51 (2nd Cir, 1987); Tom Growney Equipment, Inc. Shelly Irrig Dev., Inc., 834 F. 2nd 833 (9th Cir. 1987).

In the case at bar, Battle, again, had no reasonable opportunity to respond to the motion for sanctions regarding the Order of Pre– Filing, which arbitrarily restricted her access to the State's courts in Virginia.

CONCLUSION

This case presents questions of exceptional importance– whether a litigant has a right to contest the attorney's fee statement, the type and amount of monetary sanctions imposed, where there is a large amount of sanctions imposed, and whether a litigant have a right of access to the courts.

If the opinion below is allowed to stand, Battle will have been denied due process and will forever be subjected to arbitrary abuse with respect to access to the courts of Virginia. By granting Battle's petition for writ of certiorari, however, this Court can correct the Virginia Supreme

Court's Order, which defy the Fourth Circuit's longstanding holding that a litigant has a due process right to contest the attorney's fee statement, the type and amount of monetary sanctions imposed, and this Court's holding regard an individual right to access to the courts.

According, Battle respectfully requests that her petition for writ of certiorari be granted.

Respectfully submitted,

Sherry Battle, Pro se
1225 Boissevain Ave.,
Norfolk, Virginia 23507
(757) 622-2112
Petitioner

No. _____

In The Supreme Court of the United States

SHERRY D. BATTLE,

Petitioner,

v.

CHARLES E. POSTON, et al.,

Respondents.

On Petition for Writ of Certiorari to the Supreme Court of Virginia

APPENDIX

Sherry D. Battle
1225 Boissevain Avenue
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APPENDIX A

VIRGINIA:
In the Supreme Court of Virginia held at the Supreme Court Building in the City of Richmond on Friday the 12th day of September, 2003.

Sherry D. Battle , etc., et al., Appellants,

against Record No. 030214
Circuit Court No. L02-1383

Charles E. Poston, et al., Appellees.

Upon a Petition for Rehearing

On consideration of the petition of the appellants to set aside the judgment rendered herein on the 11th day of June, 2003 and grant a rehearing thereof, the prayer of the said petition is denied.

A Copy,

Teste:

Clerk

APPENDIX B

VIRGINIA:
In the Supreme Court of Virginia held at the Supreme Court Building in the City of Richmond on Wednesday the 11th day of June, 2003.

Sherry D. Battle , etc., et al., Appellants,

against Record No. 030214
Circuit Court No. L02-1383

Charles E. Poston, et al., Appellees.

From the Circuit Court of the City of Norfolk

Upon review of the record in this case and consideration of the argument submitted in support of and in opposition to the granting of an appeal, the Court is of the opinion there is no reversible error in the judgment complained of. Accordingly, the Court refuses the petition of appeal. The appellee's motion to dismiss is denied.

A Copy,

Teste:

David B. Beach, Clerk
By:

Deputy Clerk

APPENDIX C

IN THE CIRUCIT COURT OF THE CITY OF NORFOLK

SHERRY D. BATTLE, Individually and trading as
BATTLE BAIL BONDING CO.,
Plaintiff,

v. Case No. L02-1383

CHARLES E. POSTON, et al.,

~~FINAL~~ ORDER

This matter comes before the Court upon the Demurrer, Plea in Bar and filed on behalf of the Hon. Charles E. Poston, Hon. John C. Morrison, Jr., Hon. John E. Clarkson, Hon. William F. Rutherford, Hon. Everett A. Martin, Jr., Hon. Lydia Taylor, Hon. Marc Jacobson, Hon. Junius P. Fulton, III and Hon. Joseph A. Leafe (collectively referred to as the " Judge Defendants") and on the Demurrers filed on behalf of the Hon. Albert Teich, and the Hon. Charles D. Griffin. The Plaintiff, Ms. Sherry Battle appeared *pro se*.

The Judge Defendants demur to the Motion for Judgment on the ground that it fails to state a cognizable claim against them and assert that all claims for money damages are barred by their absolute judicial immunity and that this Court lacks jurisdiction to award the declaratory and injunctive relief sought against them. The Demurrer asserts that the plaintiff has failed to allege sufficient facts to state a cognizable claim against the Judge Defendants under either State or federal law. The Demurrer and Pleas in Bar filed on behalf of the Judge Defendants assert the following affirmative defenses:

1) That plaintiff's claims are barred by the statute of limitations;

2) That plaintiff's claims for money damages are barred by absolute judicial immunity;
3) That this Court lacks subject matter jurisdiction to award declaratory and injunctive relief against the Judge Defendants; and
4) That plaintiff's claims are barred by the doctrines of res judicata and collateral estoppel

Upon a careful review of the Motion for Judgment, and attachments, and upon mature consideration of the responsive pleadings filed on behalf of the Judge Defendants, this Court finds that: 1) Plaintiff's claims against the Judge Defendants are barred by the two year statute of limitations limitations found in Va. Code 8.01-243(A) and 248. The two years statute of limitations applies to both the federal and State claims. It is clear that plaintiff's claims related to the denial of her petition to serve as bail bondsman began to accrue, at the latest, when she received the July 7, 1999, letter from then Chief Judge Poston. Plaintiff concedes that she received the July 7 letter on July 13, 1999. See Exhibit 1 to plaintiff's original Motion for Judgment. Accordingly, plaintiff's Motion for Judgment in this case should have been fled no later than July 13, 2001. Instead, plaintiff waited until October 5, 2001 to file her original Motion for Judgment. As a result all claims asserted against the Judge Defendants are barred by the statue of limitations. 2) Even if Plaintiff's claims were not time barred, this court finds that, notwithstanding the plaintiff's characterization of certain acts as " administrative," the Motion for Judgment challenges "judicial functions" or decision making by the Judge defendants in their capacity as judges and, therefore, all of plaintiff's claims for money damages as barred by the doctrine of absolute judicial immunity. 3) Even if plaintiff's

claims were not time barred, this Court lacks jurisdiction to enjoin, or to declare unlawful, the acts of other circuit court judges as requested in the Motion for Judgment. 4). Finally, the Court finds that the doctrines of collateral estoppel and res judicata prevent plaintiff from re-litigating whether the denial of plaintiff's bail bondman's petition constitutes judicial action supporting judicial immunity and whether plaintiff's two years to file suit began to run from some date after she was first notified by the Judges that her collateral was insufficient and that her bondsman's petition was denied. In previous lawsuits brought by Ms. Battle against one or more of Norfolk Circuit Court Judges, the United States District Court for the Eastern District of Virginia has held that revocation of a bail bondsman's license is a judicial act protected by judicial immunity. The Federal Court also previously held that the date of accrual of the two- years statute of limitations was not extended by the plaintiff's subsequent requests to the Judge(s) to reconsider their decision to revoke her bondsman license. See Battle v. Whitehurst, 831 F. Supp. 522 (E. D. Va. 1993), aff' d 36 F. 3d 1091 (4th Cir. 1994) and Battle v. Morrison , No 2:96cv444 (E.D.Va. 1996), aff'd Fourth Cir. Docket No. 97-1637, 1998 U.S. App. LEXIS 5085 (4th Cir. 1998). This Court agrees and finds no reason to distinguish between the decision to revoke a bondsman's license and the decision to deny a petition to serve as a bail bondsman.

For the reasons set forth in the Demurrer, Pleas in Bar and Memorandum in Support filed on behalf of the Judge Defendants, it is hereby ORDERED, ADJUDGED and DECREED that the ~~Demurrer~~ and Pleas in Bar filed on behalf of the Judge Defendants are hereby granted and all claims against the Judge Defendants are dismissed, with prejudice.

The court finds it unnecessary to address the Demurrer

~~For the reason set forth in the Demurrer and Memorandum in Support filed on behalf of the Defendants Teich and Griffith, it is hereby ORDERED , ADJUDED~~

~~AND DECREED that their Demurrer are hereby granted and all claims against them be dismissed, with prejudice.~~
Plaintiff 's motions to change venue and for leave to amend are hereby denied and plaintiff's objections are noted.

Sanctions

Defendants seek monetary sanctions, as well as a pre-filing injunction. After a careful review of the pleadings, including the claims asserted by Ms. Battle and the prior litigation, the Court finds that pursuant to Va. Code 8.01-271.1 Defendants motions for sanctions should be granted. Plaintiff is hereby ordered to pay to the Treasurer of the Commonwealth of Virginia the sum of $5000.00 dollars within twenty (20) days of the date of this Order. A separate Order of Pre– filing Injunction will be entered against Ms. Battle today.

The Clerk shall send a copy of this Order to the plaintiff and to all counsel of record.

ENTERED: October 18, 2002

_____

Alfred D. Swersky, Judge Designate

We ask for this:

_____

Edward M. Macon
Senior Assistant Attorney General
Office of the Attorney General
900 East Main Street
Richmond, VA. 23219
(804) 786-0082
(804) 371-2087 (fax)
Counsel to the Judge Defendants (Hon. Charles E. Poston, Hon. John C. Morrison, Jr. Hon. John E. Clarkson, Hon. William F. Rutherford, Hon. Everett A. Martin, Jr., Hon.

Lydia C. Taylor, Hon. Marc Jacobson, Hon. Junius P. Fulton, III and Hon. Joseph A. Leafe)

S. Lawrence Dumville, Esquire
4356 Bonney Road, Suite 2-102
Virginia Beach, VA. 23452
Counsel to Defendants Hon. Albert Teich and Hon. Charles Griffith

---

Ms. Sherry D. Battle
1225 Boissevain Ave.
Norfolk, Va. 23507
Plaintiff, *pro se*

IN THE CIRUCIT COURT OF THE CITY OF NORFOLK

SHERRY D. BATTLE, Individually and trading as BATTLE BAIL BONDING CO.,
Plaintiff,

v. **Case No. L02-1383**

CHARLES E. POSTON, et al.,
Defendants.

ORDER OF PRE-FILING INJUNCTION

Came this day the defendants, Hon. Charles E. Poston, Hon. John C. Morrison, Jr., Hon. John E. Clarkson, Hon. William F. Rutherford, Hon Everett A. Martin, Jr., Hon. Lydia C. Taylor, Hon. Marc Jacobson, Hon. Junius P. Fulton, III and Hon. Joseph A. Leafe, (collectively referred to as the "Judge Defendants"), and came also the Honorable Albert Teich and the Honorable Charles Griffith, by counsel, and the Plaintiff Miss Sherry Battle, pro se, upon the defendants' motion for a Pre-Filing Injunction against Sherry D. Battle individually and trading as Battle Bail Bonding Co.

WHEREFORE, it is ADJUDGED, ORDERED AND DECREED that Sherry D. Battle, individually and trading as Battle Bail Bonding Co. is restrained from further filings in this Court and the courts of the State of Virginia without obtaining prior leave of the Court, in which the action is to be instituted, pursuant to the following procedure: the plaintiff, Sherry Battle, shall inform the Court in question of (i) pertinent facts concerning the action to be brought , including the existence of this injunction order and of any outstanding litigation against the proposed defendant and (ii)

that the plaintiff Battle must obtain leave of court to file the action;

And it is further ADJUDGED, ORDERED AND DECREED that to obtain leave of a court to institute an action, the plaintiff Sherry Battle shall:

1. File with such Motion for Judgment or Complaint, a motion captioned as "Motion Pursuant to Court Order Seeking Leave To File";
2. Attach a copy of this Order as Exhibit 1 to that motion;
3. Attach as Exhibit 2 to that motion, a sworn affidavit under penalty of perjury that the claim the plaintiff Sherry Battle (individually and/or trading as Battle Bail Bonding Co.) wishes to present is a new claim never before raised in any court and that such claim is neither frivolous nor intended to harass;
4. Attach as Exhibit 3 to that Motion an identification by listing the caption of each and every suit previously filed by the plaintiff Sherry Battle (individually and/or trading as Battle Bail Bonding Co.) or Sherry Battle's behalf in any court against each and every defendant to the suit the plaintiff Sherry Battle wishes to file;
5. Attach as Exhibit 4 to that Motion a copy of each such complaint and a certified record of its disposition; and
6. Serve a copy of this Order on each defendant if and when leave to serve the Motion for Judgment or Complaint or Warrant in Debt in Debt in the new case is granted:
   And is further ADJUDGED, ORDERED AND DECREED that failure to comply with the terms of this Order may be sufficient grounds for a court to deny any Motion for Leave to File made by the plaintiff Sherry Battle, and further, that failure to

advise a court in which the plaintiff Sherry Battle (individually and/or trading as Battle Bail Bonding Co.) has filed a lawsuit, of this order, or, to comply with this Order may be considered by the appropriate court as sufficient grounds to dismiss such a lawsuit. Any Suit By ~~Judges~~ Ms. Battle Against Judges Of This Court Shall Be Referred To The Supreme Court Of Virginia For Consideration By A Designated Judge.

ENTERED: October 18, 2002 _____
Judge

I ask for this

_____
Edward M. Macon
Counsel to the Judge Defendants

Seen and objected to:

_____
Sherry D. Battle, individually
and trading as Battle Bail Bonding Co.

seen

_____
Larry Dumville, Esq.
Counsel to Teich and Griffith